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(2022) 9 Supreme Court Cases 306

3J

(BEFORE L. NAGESWARA RAO, B.R. GAVAI AND ANIRUDDHA BOSE, JJ.)

(*In the Matter of*)

T.N. GODAVARMAN THIRUMULPAD .. Petitioner;

Versus

UNION OF INDIA AND OTHERS .. Respondents.

IA No. 61370 of 2021 (Report No. 06 of 2021) in Application No. 1440 of 2020, IA No. 107884 of 2021 and IAs Nos. 30853 and 30858 of 2022 in WP (C) No. 202 of 1995†, decided on May 9, 2022

Environment Law — Wildlife (Protection) Act, 1972 — Ss. 18-A, 29 and 38-O(1)(g) r/w S. 3 of the Environment (Protection) Act, 1986 — Protection to sanctuaries — Wildlife clearance — Doubling of railway line — Approval granted by Standing Committee of National Board for Wildlife — Recommendation by Central Empowered Committee for revocation of — Whether to be accepted

— Ministry of Railways failed to provide any substantial basis for requirement of doubling railway line by addressing its impact on habitat and damage that it would cause to environment — Therefore conclusion of CEC upheld, and approval granted by Standing Committee of NBWL for doubling railway line between Castlerock to Kulem, revoked

— Doubling of railway line between Castlerock to Kulem is a part of critical project undertaken by Ministry of Railways in public interest — Ministry of Railways or RVNL failed to provide any substantial basis for requirement of doubling railway line by addressing impact which it would have on habitat and damage that it would cause to environment — RVNL attempted to justify its decision on ground that there is a likelihood that requirement of coal and other raw materials would be doubled in future and proposed project is very much essential for transportation of said goods — Requirement of coal can be met by utilising Krishnapatnam Port which is a viable alternative for transportation of coal — Said suggestion would also prevent degradation of Western Ghats — Even according to RVNL, traffic on Konkan Railway line is frequently dislocated due to landslides, breaches, etc. especially during rainy season — In view of difficult terrain having sharp curves and gradient as high as 1:37 for proposed project, any further construction would invite a great disaster in sensitive areas of Western Ghats as well

— Landscape in which railway line is proposed to pass is an important tiger corridor, connecting three States of Goa, Karnataka and Maharashtra — Report prepared by National Tiger Conservation Authority (NTCA) regarding viability of such a railway line is only for Karnataka part of project — No such report has been prepared for Goa part — Standing Committee of NBWL ought to have sought for a report from NTCA on Goa part of project before granting

† Under Article 32 of the Constitution of India **[Allowed]**

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approval for doubling of railway line between Castlerock to Kulem in view of fact that it is an important tiger corridor where instances of killing of tigers have been reported

— Point raised by RVNL before CEC regarding enhancement of connectivity between Goa and Karnataka by proposed project was rightly rejected on ground that there was a proposal for 4-lanning of National Highway 4 along with same route and augmentation of air connectivity to Goa — RVNL proposed to undertake impact assessment, thorough study of long-term impact, planning of various mitigation measures for safeguarding interest of wildlife habitat and flora and fauna — RVNL also proposed to construct underpasses/overbridges at identified locations of track crossings by wild animals to ensure safe crossings of tracks by animals — CEC in its report submitted that it was noticed during site visit that it was not possible to construct any sort of underpasses at said location — Therefore, mitigation measure proposed to be undertaken by RVNL is not clear

— A detailed study undertaken by NTCA on viability of project for Goa part is essential in view of Bhagwan Mahaveer Wildlife Sanctuary being an important tiger corridor — Even according to NTCA, an independent and detailed assessment of cumulative impact of project for entire stretch from Tinaighat to Kulem has to be undertaken — Assessment of impact which the project would have on environment, especially in protected area and wildlife sanctuary taking into account all major factors such as impact on habitat, species, climate, temperature, etc. caused due to felling of trees (not only for laying of railway tracks but also for secondary works such as setting up machinery, disposal of waste, and putting in place various mitigation measures, etc.), movement of trains, human wildlife interactions would have to be strictly undertaken before project is considered by NBWL — There is also no credible supporting data for projections that are given by RVNL relating to traffic between Karnataka and Goa project for periods 2022-2023 and 2030-2031 and there is no explanation regarding projected traffic for next 4-5 yrs which is required for completion of construction of project — Such data, projections and speculations will have to be supported by an independent and credible source before undertaking any kind of construction activity in Western Ghats which is world's eight hotspots of biological diversity

— Therefore, conclusion of CEC upheld and approval granted by Standing Committee of NBWL for doubling railway line between Castlerock to Kulem revoked — However, this will not preclude RVNL to carry out a detailed analysis on impact of proposed project on biodiversity and ecology of protected areas under wildlife sanctuary

— Development vis-à-vis Ecology: National, Urban and Rural Development — Development Projects — Prerequisites for/Environmental clearance/viability — Forests, Wildlife and Zoos — Specific cases relating to diversion of Forest land — Roads/Highways/Bridges/Railway tracks — Environment (Protection) Act, 1986, S. 3 (Paras 16 to 26)

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T.N. Godavarman Thirumulpad (104) v. *Union of India*, (2008) 2 SCC 222; *Indian Council for Enviro-Legal Action* v. *Union of India*, (1996) 5 SCC 281; *Vellore Citizens' Welfare Forum* v. *Union of India*, (1996) 5 SCC 647, *followed*

A.P. Pollution Control Board v. *M.V. Nayudu*, (1999) 2 SCC 718, *affirmed*

T.N. Godavarman Thirumulpad v. *Union of India*, (2016) 13 SCC 586 : (2016) 13 SCC 612 (2); *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118, *referred to*

RM-D/68865/C

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Chronological list of cases cited ***on page(s)***

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2. (2008) 2 SCC 222, *T.N. Godavarman Thirumulpad (104)* v. *Union of India* 315*g*
3. (2004) 12 SCC 118, *M.C. Mehta* v. *Union of India* 316*e-f*
4. (1999) 2 SCC 718, *A.P. Pollution Control Board* v. *M.V. Nayudu* 315*g-h*, 316*e*
5. (1996) 5 SCC 647, *Vellore Citizens' Welfare Forum* v. *Union of India* 316*a-b*
6. (1996) 5 SCC 281, *Indian Council for Enviro-Legal Action* v. *Union of India* 316*a-b*

ORDER

1. In Interlocutory Application (IA) No. 1308 of 2005 and other connected IAs in Writ Petition (C) No. 202 of 1995, this Court on 5-10-2015[1] directed the National Board for Wildlife ("NBWL") to furnish a copy of the orders passed by it relating to matters of National Parks and Wildlife Sanctuaries. The Central Empowered Committee ("CEC") was given liberty to approach this Court by filling an appropriate application, if they were not satisfied with the decision of the Standing Committee of NBWL while other aggrieved parties were given the liberty to approach the appropriate forum.

2. In its 56th meeting held on 17-12-2019, the Standing Committee of NBWL recommended the proposal for wildlife clearance for doubling of existing railway line from Castlerock (Karnataka) to Kulem (Goa) involving 120.875 ha of land within protected area and 113.857 ha of land in non-protected area reserved forest 7.018 ha, passing through Bhagwan Mahaveer Wildlife Sanctuary, subject to fulfilling certain conditions.

3. The Goa Foundation filed an application before CEC on 26-6-2020 stating that the Standing Committee of NBWL had recommended granting wildlife clearances for doubling of 26 km stretch of the railway line in Western Ghats from Castlerock in Karnataka to Kulem in Goa in violation of the order passed by this Court on 5-10-2015[1]. Apart from the objection to the project by Goa Foundation, a large number of appeals/representations were received by CEC from scientists, researchers, ecologists, environmentalists, lawyers, veterinarians, artists, painters, illustrators, filmmakers, musicians, sculptures, students, villagers, tourism and travel trade. After examining the matter in detail, CEC submitted Report No. 6 of 2021 on 23-4-2021 in the application filed by Goa Foundation. In this report, CEC recommended revocation of the permission granted by the Standing Committee for NBWL for doubling of the railway line passing through the ecologically sensitive Western Ghats from

1 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2016) 13 SCC 586 : (2016) 13 SCC 612 (2)

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Tinaighat-Castlerock in Karnataka to Kulem in Goa involving 120.875 ha of land as such permission was in violation of the guidelines issued by the Ministry of Environment, Forest and Climate Change ("MOEF&CC") under the Wildlife Protection Act, 1972 and the order dated 5-10-2015[1].

4. In the said Report dated 23-4-2021, the importance of Western Ghats ecosystem which is one of world's eight hotspots was highlighted. It was mentioned in the said report that the Western Ghats spread across 9 national tiger reserves, 20 national parks and about 68 wildlife sanctuaries and the landscape forms one of the largest and most contiguous protected area networks in the country.

5. Insofar as the doubling of the railway line from Castlerock to Kulem is concerned, CEC examined the details of the project. According to Rail Vikas Nigam Ltd. ("RVNL") doubling of existing 342 km line from Hospet to Murmagao Port was sanctioned by the Ministry of Railways at the cost of Rs 2127 crores for enhancing section capacity of existing single line track. The only railway line between Hospet and Vasco Port passing through forest land where there is no alternative as the alignment invariably has to pass through the forest. The proposed railway doubling line is parallel to the existing railway line which passes through same forest along the same corridor. The estimated cost for the project from Castlerock to Kulem is Rs 90 crores and the capacity utilisation of the existing line track has increased to 120%.

6. The Standing Committee of NBWL recommended the proposal made by RVNL for doubling the existing railway line from Castlerock to Kulem, subject to the condition that the project proponent will comply with all the conditions imposed by the Chief Wildlife Warden and will implement the approved animal passage plan. Further, the annual compliance certificate of the stipulated conditions has to be submitted by the State Chief Wildlife Warden to the Government of India.

7. The objections raised by Goa Foundation were that the project involves diversion of significant area of forest land and sanctuary land and would entail further destruction of the sanctuary/national park and wildlife. According to Goa Foundation, a large number of trees will have to be felled within the Bhagwan Mahaveer Wildlife Sanctuary and also, the integrity of the protected area and wildlife sanctuary would be severely affected. The Goa Foundation also contended before CEC that assessment of proper impact on wildlife habitat and biodiversity was never carried out before NBWL approved the project.

8. RVNL stated before CEC that the objections raised by Goa Foundation are without merit. According to RVNL, doubling of railway line would be a gamechanger in the economic development of the south-western part of India. The proposed doubling track would be at a distance on 5.8 m from the existing track except certain deviations at the entry and exit points of the tunnels. To minimise disturbance only 51.48 ha of land has been requisitioned for diversion. CEC was informed by RVNL that the new alignment (doubling

1 *T.N. Godavarman Thirumulpad* v. *Union of India*, (2016) 13 SCC 586 : (2016) 13 SCC 612 (2)

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track) will have 7 major and 74 minor bridges and 23 tunnels in toto. As major portion of the project of doubling 342 km railway line was completed, the approval granted by NBWL should not be interfered with.

9. After examining the information furnished by RVNL relating to the necessity of doubling of the 26 km railway line from Caslterock to Kulem which passes through the protected area and wildlife sanctuary, CEC was of the opinion that the additional line is not likely to add either to the turnaround time of the train or loco or to the speed of the train. In view of the difficult gradient, the movement of traffic requires 5 engines, 3 in the front end to pull the train and 2 behind to push the train up. Taking note of the fact that the movement of traffic from Murmagao Port in Goa and Krishnapatnam Port in Andhra Pradesh to Hospet/Bellary region in Karnataka was unidirectional from a period between 2013-2014 and 2020-2021 it was observed by CEC that more than 80% of the rakes were returning empty. Further, taking note of the fact that 92% of the goods transported from Goa to Karnataka through the line was coal and while observing that the export of iron ore from Karnataka as a policy was discouraged, CEC did not recommend the doubling of the railway line. A perusal of the report of CEC would show that the passenger traffic on the said line was also examined.

10. The report of CEC also referred to the observations made by the National Tiger Conservation Authority ("NTCA") in its site appraisal report regarding diversion of forest land for doubling of railway line in the Kali Tiger Reserve, falling in the Karnataka part of the project. The problems which would arise in the doubling of railway line due to long rainy season resulting in delay in completion of the project, disposal of excavated earth from cutting of trees and tunnel construction and need for special measures required in view of the topographical and access related issues as pointed out by NTCA have been highlighted in the report of CEC. The impact of the doubling of the railway line which would have a detrimental effect on wildlife was also noticed by NTCA according to which the project would severely impact wildlife in the region. NTCA suggested that an independent and detailed assessment of the cumulative impact of the project on wildlife for the entire stretch from Tinaighat to Kulem should be undertaken. The CEC further observed in the report that the Standing Committee of NBWL did not obtain any specific recommendation on mitigation measures from the Wildlife Institute of India, Dehradun before approving the proposal in respect of the Goa portion.

11. Taking into account the aforementioned submissions and suggestions, CEC recommended to this Court that the permission granted by the Standing Committee of NBWL should be revoked in view of the following:

11.1. The doubling of the existing rail line will not have any positive impact on the gradient and curvature of the new line and it will operate at the same inefficient level as the existing line and will be operating with all the existing severe limitations on running of trains "Up the Ghat" and "Down the Ghat" as that of the existing line (Ref para 13).

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11.2. Railway line was laid in 1890s when there was no other rail connectivity available to Goa and at present the Konkan Railway line gives excellent connectivity to northern and southern parts of India.

11.3. The Murmagoa Port Trust authorities as well as the project proponents have submitted that consequent to changes in government policy to discourage import of coal there will be reduction in the coal import which currently forms more than 90% of goods traffic from Murmagoa Port.

11.4. The estimate of projected increase in traffic from Karnataka to Goa furnished by the Railways is not based on facts and is without any sound reasoning and as statistics shows mostly includes empty rakes returning to Goa and that despite the change in policy on import of coal the same has not been reflected in the projected traffic from Goa to Karnataka.

11.5. The current movement of goods to Murmagoa Port constitutes only about 20% of the rakes going out from Goa and which leaves a huge unutilised capacity in the existing single line itself.

11.6. There are alternative ports like Krishnapatnam in east coast available with better rail connectivity for transport of goods to and from industrial belt of northern Karnataka and the capacity of the same is yet to be fully utilised.

11.7. The opening of the forest cover in the ecologically sensitive Western Ghats along the existing line is likely to invite light demanding invasive weeds like Mikania species which colonise fast in the open area and spread to the nearby forest canopy and destroy the natural forest.

11.8. The increased number of trains and wider openings through the ecologically sensitive Western Ghats for laying the track will further fragment the habitat and will make the movement of wildlife including arboreal animals across the railway line much more difficult and dangerous and is bound to result in high casualties amongst the wildlife.

11.9. The railway line cuts across the most important animal corridor in the Western Ghat landscape between Karnataka and Maharashtra through the State of Goa and will be a serious impediment for movement of long ranging animals like tiger and elephant.

11.10. The approval by NBWL to go ahead with the project has been granted in respect of Goa Portion without first obtaining the advice of NTCA as statutorily required under Section 38(O) of the Wildlife (Protection) Act, 1972.

11.11. There is a gross underestimation of the requirement of virgin forest land for implementation of the project in as much as the project implementation will require additional land for road connectivity, temporary dumping of the excavated earth/blasted stone and parking of heavy machinery and as such during the stage of implementation of the project much more than 120.875 ha of estimated forest land is likely to be destroyed.

11.12. The connectivity between Goa and Karnataka is being strengthened/ improved by way of 4 laning of NH 4A along the same route and by development of new airport.

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12. We have heard Mr A.D.N. Rao, learned Senior Counsel for CEC, Mr Prashant Bhushan, learned counsel for Goa Foundation, Mr Sanjay Upadhyay, learned counsel for RVNL and Mr Balbir Singh, learned counsel for Ministry of Railways. Mr Rao supported the report of CEC and recommended the revocation of permission granted by NBWL to the doubling of railway line from Castlerock to Kulem for the following reasons:

12.1. The section capacity of entire route was not being fully utilised by the Railways due to severe restrictions owing to the alignment and the gradient of the tough terrain. The capacity utilisation was below 50% due to severe constraints in the Ghat section.

12.2. In the proposed second line, there would be 23 tunnels which would fall outside the existing right of way and would tantamount to formation of a new line altogether.

12.3. Even according to RVNL, the traffic on Konkan Railway is frequently dislocated due to landslides, breaches, etc. especially during the rainy season. Permitting construction of a second line between Kulem and Caslterock where the gradient is as high as 1:37 would only invite grave danger of a further disaster.

12.4. A third railway line from Toranagallu Junction to Krishnapattam Port would be a better alternative than construction of a second line connecting Murmagao Port to the industrial belt in Bellary District.

12.5. The disposal of muck deposit which is likely to be generated in huge quantities would pose a difficult challenge for the Railways and for which adequate arrangement has not been kept in place by RVNL.

12.6. The opinion of NTCA was not taken by NBWL even when the Goa part of the project includes an important tiger reserve and where instances of killing of tigers have been recorded.

12.7. Preservation of biodiversity and conservation of the ecosystem of the western ghats outweighs the need for doubling the railway line.

13. On behalf of RVNL, the project proponent, it was submitted that the project is super critical and it was sanctioned in 2011-2012. Connectivity to Goa and the hinterlands was taken into account by the Ministry of Railways before the project was sanctioned. All statutory clearances have been obtained before undertaking the doubling of the railways line. Stage II clearance was granted by the Ministry of Environment and Climate Change on 12-4-2022 for undertaking doubling in the State of Karnataka and Goa. It was further stated that the Bhagwan Mahaveer Wildlife Sanctuary has not been notified as a Tiger Reserve under the Wildlife Protection Act, 1972 and therefore there was no need for RVNL to approach NTCA seeking a report for the Goa part of the Project.

14. It was contended by RVNL that CEC failed to take into account that observations of NTCA pertained to Danderi Wildlife Sanctuary in the State of Karnataka and not with respect to the project falling within the State of Goa. The project proponent attempted to justify the project by contending that State-of-the-Art wildlife mitigation measures have been adopted by the

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project proponent, implementation of which is being monitored by the experts. RVNL also brought to the notice of this Court a comprehensive biodiversity and environment assessment undertaken by the Indian Institute of Science, Bengaluru for Castlerock and Kulem stretch in August 2017. It assured this Court that rail over-bridges and road under-bridges would be constructed for crossing of animals. This Court was further informed that there has not been a single instance of death of any major animal, including tiger, since 1890s on the railway track. An assurance was given to this Court that there would be no additional disturbance to the forest area as no separate pathway would be constructed in the forest area for transportation of goods and machinery which would be carried out in the most ecologically efficient manner. Only such of those trees which are essential will be felled and compensatory afforestation would be taken up. Permission was sought from NBWL for sanction of doubling of railway line from Castlerock to Kulem after examining all the other alternatives. RVNL contended that the material that was submitted was not taken into consideration by CEC before recommending for revocation of the licence granted by NBWL for doubling of the railway line.

15. According to Mr Bhushan, learned counsel for the Goa Foundation, the approval of NTCA is mandatory as per Section 38(O)(*g*) of the Wildlife Protection Act, 1972. He submitted that Bhagwan Mahaveer Wildlife Sanctuary is an important tiger corridor which needs to be protected. NTCA approval submitted for the State of Karnataka has to be considered and a cumulative study has to be taken up for protected species in Goa as well. Goa Foundation apprehends that the doubling of railway line would increase the dangers of severe environmental degradation owing to massive cutting of trees which would then have an adverse impact on the climate and temperature of the protected area apart from habitat discontinuities, impact on species, etc. The further complaint of Goa Foundation is that advice of Wildlife Institute of India was not obtained for Goa portion for doubling of railway line. Goa Foundation alleged that the increase in the annual requirement of the coal and other raw material was not adequately demonstrated by RVNL. It stated that there is no basis for the contention of RVNL that it anticipates increase of container traffic on the line. Goa Foundation recommended acceptance of the report of CEC and revocation of the permission granted by NBWL for doubling the railway line between Castlerock and Kulem.

16. Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, courts are required to balance development needs with the protection of the environment and ecology[2]. It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity[3]. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment

2 *T.N. Godavarman Thirumulpad (104)* v. *Union of India*, (2008) 2 SCC 222
3 *A.P. Pollution Control Board* v. *M.V. Nayudu*, (1999) 2 SCC 718

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destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment[4].

17. In *Vellore Citizens' Welfare Forum* v. *Union of India*[5], this Court held that the "precautionary principle" is an essential feature of the principle of "sustainable development". It went on to explain the precautionary principle in the following terms: (SCC p. 658, para 11)

> "*11.* ... (*i*) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.
>
> (*ii*) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
>
> (*iii*) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign."

18. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential[3].

19. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest[6]. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment.

20. Keeping in mind the aforesaid principle of law on sustainable development and precautionary principle, we proceed to examine whether the recommendation made by CEC should be accepted. Doubling of the railway line between Castlerock to Kulem is a part of the critical project undertaken by the Ministry of Railways in the year 2011 in public interest. Whether the justification for doubling the railway line would outweigh the environmental concerns raised by the Goa Foundation which found favour with CEC is the

4 *Indian Council for Enviro-Legal Action* v. *Union of India*, (1996) 5 SCC 281
5 (1996) 5 SCC 647
3 *A.P. Pollution Control Board* v. *M.V. Nayudu*, (1999) 2 SCC 718
6 *M.C. Mehta* v. *Union of India*, (2004) 12 SCC 118

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question that falls for determination. We are of the view that CEC is right in its conclusion that the proposal for the doubling of the railway line between Castlerock to Kulem by NBWL should be revoked for the reasons as stated hereinafter.

21. The Ministry of Railways or RVNL have failed to provide any substantial basis for the requirement of doubling the railway line by addressing the impact which it would have on the habitat and the damage that it would cause to the environment. RVNL attempted to justify its decision on the ground that there is a likelihood that the requirement of coal and other raw materials would be doubled in the future and the proposed project is very much essential for transportation of said goods. Reliance was placed by RVNL on a parliamentary clarification dated 2-2-2022 and a letter of the Ministry of Power, Government of India to argue that there is no likelihood of shift from coal-based economy. We are in agreement with CEC that the requirement of coal can be met by utilising the Krishnapatnam Port which is a viable alternative for transportation of coal. The said suggestion would also prevent the degradation of the Western Ghats. Even according to RVNL, traffic on Konkan Railway line is frequently dislocated due to landslides, breaches, etc. especially during the rainy season. In view of the difficult terrain having sharp curves and gradient as high as 1:37 for the proposed project, any further construction would invite a great disaster in the sensitive areas of Western Ghats as well.

22. The landscape in which the railway line is proposed to pass is an important tiger corridor, connecting the three States of Goa, Karnataka and Maharashtra. The report prepared by NTCA regarding the viability of such a railway line is only for the Karnataka part of the project. No such report has been prepared for the Goa part. The Standing Committee of NBWL ought to have sought for a report from NTCA on the Goa part of the project before granting approval for the doubling of the railway line between Castlerock to Kulem in view of the fact that it is an important tiger corridor where instances of killing of tigers have been reported. We find merit in the recommendations made by CEC regarding the necessity of taking into account the actual loss of the wildlife habitat by the construction activity for the doubling of the railway line for which heavy machinery would have to be moved and crusher units will have to be established for dumping construction material.

23. The point raised by RVNL before CEC regarding the enhancement of connectivity between Goa and Karnataka by the proposed project was rightly rejected on the ground that there was a proposal for 4-lanning of National Highway 4 along with the same route and augmentation of air connectivity to Goa. We are unable to uphold the approval granted to the project by NBWL on the basis of the assurance given by RVNL that all possible mitigation measures shall be taken to protect biodiversity and ecosystem of the protected areas under the Wildlife Protection Act, 1972. RVNL has proposed to undertake impact assessment, thorough study of long-term impact, planning of various mitigation measures for safeguarding interest of wildlife habitat and flora and fauna. RVNL has also proposed to construct underpasses/overbridges at identified locations of track crossings by wild animals to ensure safe crossings of tracks by animals. CEC in its report submitted that it was noticed during

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the site visit that it was not possible to construct any sort of underpasses at the said location. Therefore, the mitigation measure proposed to be undertaken by RVNL is not clear. The report prepared by Indian Institute of Science, Bengaluru, "Biodiversity and Environmental Assessment of proposed doubling of railway track between Kulem and Castlerock in Goa-Karnataka" relied upon by RVNL was considered by CEC which observed that according to NTCA the study report of Indian Institute of Science, Bengaluru lacks in critical assessment, particularly of project impacts. NTCA further suggested that there should be an independent and detailed assessment of the cumulative impact of the project for the entire stretch from Tinaighat to Kulem.

24. It is necessary that there should be a detailed study and analysis of the impact of the proposed project on the biodiversity and ecological system of the protected areas under wildlife sanctuary. A detailed study undertaken by NTCA on the viability of the project for the Goa part is essential in view of the Bhagwan Mahaveer Wildlife Sanctuary being an important tiger corridor. Even according to NTCA, an independent and detailed assessment of the cumulative impact of the project for the entire stretch from Tinaighat to Kulem has to be undertaken. The impact of the increase of section capacity by 2.5 times than by doubling the railway line in comparison to the single line along with increased mobility on wildlife problems in terms of sound pollution, vibrations, etc. has not been taken into account by the Standing Committee of NBWL while recommending the project. Assessment of the impact which the project would have on the environment, especially in the protected area and wildlife sanctuary taking into account all the major factors such as the impact on the habitat, species, climate, temperature, etc. caused due to felling of trees (not only for the laying of railway tracks but also for the secondary works such as setting up machinery, disposal of waste, and putting in place various mitigation measures, etc.), movement of trains, human-wildlife interactions would have to be strictly undertaken before the project is considered by NBWL. There is also no credible supporting data for the projections that are given by RVNL relating to the traffic between Karnataka and Goa project for the period 2022-2023 and 2030-2031 and there is no explanation regarding the projected traffic for the next 4-5 years which is required for the completion of the construction of the project. Such data, projections and speculations will have to be supported by an independent and credible source before undertaking any kind of construction activity in the Western Ghats which is world's eight hotspots of biological diversity.

25. For the foregoing reasons, we uphold the conclusion of CEC and revoke the approval granted by the Standing Committee of NBWL for doubling the railway line between Castlerock to Kulem. However, this will not preclude RVNL to carry out a detailed analysis on the impact of the proposed project on the biodiversity and ecology of the protected areas under the wildlife sanctuary as indicated hereinabove and then submit a fresh proposal to the Standing Committee of NBWL which shall be considered in accordance with law.

26. For the aforementioned reasons, the above interlocutory applications are disposed of.